IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4848 OF 2004

Santosh Baburao Gavali ..Applicant.

V/s.

The State of Maharashtra .. Respondent.

Shri P.M. Mengane for the Applicant.
Shri D.R. More, APP for Respondent.

CORAM : A.M.KHANWILKAR, J.
DATED : 05.11.2004

PC :-

. Heard the learned counsel for the parties. Perused the record.

2. Learned counsel for the applicant submits that the applicant ought to be released on parity for the reason on which co-accused D. R. Mate has been relesed by this court. This argument is countered by the learned APP. According to the learned APP, the applicant cannot claim parity alongwith the said co-accused. In so far as the applicant is concerned, he was accosted at the scene of the offence along with Sunil Sidram Harsure and the accosted accused disclosed the name of other accused. However, I am inclined to accept the submission canvassed on behalf of the applicant that the main evidence to implicate

all the accused is one of Datya S. Pawar, relating to the meeting which took place on the previous night. In the statement of the said witness, no reference either to the presence of the applicant or likelihood of engaging the services of the applicant is made. On the other hand, according to the Applicant, the Applicant is a Rikshaw driver and his Rikshaw was engaged by the accused persons for transport. No material has been brought to my notice by the learned APP so as to even remotely suggest that the applicant was associated with the other accused prior to the incident in question. Taking over all view of the matter, the applicant deserves to be enlarged on bail on following conditions.

i. The applicant is enlarged on bail in connection with C.R. No. 159/2004 registered with Foujdar Chaudi Police Station, Solapur on executing personal bond in the sum of Rs.25,000/- (Rs. Twenty five thousand only) with one or two local sureties in the like amount.

ii. The applicant shall attend the concerned

police station once in a month on Saturday between 10 a.m. to 1 p.m..

v. The applicant shall co-operate for early disposal of the trial. If the trial court is of the opinion that the applicant is unnecessarily delaying the trial, that fact be recorded in the Rozanama, which can be a ground for cancellation of the bail.

iv. The applicant shall not influence the prosecution witness or tamper with the prosecution evidence in any manner whatsoever.

3. Order accordingly.

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